

Conservation Commission, December 19, 2011

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

December 19, 2011

Meeting was called to order 6:21 at p.m.

Members Present: Mr. Snow, Chairman, Mr. Breitenstein, Mr. Jones, Mr. Greenbaum, Ms. Scott-Pipes, Mr. Tufts.

Also Present: Paul Shea, Agent, Jim O'Connell, Agent, Carol Logue, Secretary, Allan Greenberg, Associate Member

Agenda: Motion to accept the agenda Mr. Greenbaum. Second Mr. Jones. Motion passed by unanimous vote.

Postpone discussion of Certificate of Compliance for 36 Brunswick Street.

Salt Storage at Egypt Beach Parking Lot: Salt is removed to DPW Highway Dept. Received telephone calls from DEP and several concerned neighbors. Office heard about 5 minutes before the first phone call.

Mr. Shea: Harrington, 88 Country Way – Letter dated today from Brook Monroe, finally brought in plan. Schedule discussion for next meeting. Had a meeting with Mr. Kamman last week. He thought he had 3 years to complete the project. Had him put in emergency erosion controls. Hadn't realized that Brad Holmes walked off the job. Received letter that says Brad is back. Wants to talk about stopping fines. Nothing happening on the site for the winter. Talk about it on January 11th. Has been fined daily since the letter. Will notify him he can be at the meeting on the 11th.

Mr. O'Connell: 2.5 acres offered by Police Chief Stewart between First Parish Road and Conservation Way. Would like to donate to the town, but they don't want to find out where it is; was asked to bring it to the

Commission's attention.

Allan Greenberg - Hollett Street CPC proposal: sent ConCom a note regarding the CPC meeting. Property is on the east side of train tracks, surrounded mostly by Conservation property; potential habitat benefits; probably unbuildable. Lawyer for estate talked to Conservation about the property in 2009, but nothing further happened. Lawyer contacted office this past summer looking to sell the property to Conservation. Allan talked to Mr. Snow, who suggested they apply to CPC. Willing to sell to the town for what CPC is offering for wetlands, figuring about \$12,000. Mr. Snow came late into the CPC meeting, stating that property is unbuildable and didn't think the money should be spent; there were at least two others opposed to the purchase, Rich Lane, once liaison for Selectmen to ConCom, and Bill Limbacher, liaison from the Planning Board; both thought it was a questionable purchase. In fact, the stream crossing the property empties into the Gulf, might be fish breeding habitat, therefore deserving some protection. Would like to see the Commission take a position for or against the purchase. Mr. Snow apologized for the disagreement. Glad to acquire any property that is deserving. Better in Commission's hands than in private ownership. And while currently unbuildable, always a chance that it could be built on. There has been a question about acquiring property that is non-buildable, unless there is a compelling reason to do so, e.g. Hicks swamp property drains into watershed to reservoir. Not opposed to acquiring the property, but opposed to the price that the Attorney is asking. Mr. Greenberg suggested \$12,000 according to what CPC had been paying for wetlands. Some people feel CPC money is wide open to whatever, and its being spent won't impact a fireman's salary. The townspeople in Scituate are still supporting 3%. People feel the money has been well managed; very few projects have been criticized. Price would be negotiated by CPC, has nothing to do with backing the proposal. Maybe it would be a good idea if the liaison would bring the list of possible land acquisitions to the board as soon as possible. That doesn't mean CPC will buy the ones supported. The reasons for purchase may be inadequate; expanding habitat is important, but still may be not adequate for purchase. Mr. Snow: We could take a blanket approach, for wetland pieces. Ms. Scott-Pipes: In the past after the presentations have been made to CPC, and a letter is sent before the

they vote. Sent out three last year. Allan came in last year with the Livingstone property. Wait until all the properties are in to see what they have to offer. Once all the projects are presented, then ConCom can decide what is important. The website has all the applications. Mr. Greenberg: his position is to start at the beginning, before prioritizing. It doesn't matter what is said afterwards. Paul Scott spoke very positively about this piece. Could go back to CPC and discuss more. Mr. Jones: See two issues, one being the responsibility of ConCom and the other CPC. If a piece of property is what we think should be purchased; then it is a CPC and property owner negotiation. If we put in either/or, we may end up supporting more property than there is money. Then CPC has to go through and decide. Looked at 3 properties last year, brought up as one package. Try to put together a package for the next meeting. Mr. Snow: On the 9th, the last 2 properties are coming up. No decision on the 9th. Usually there is some sort of advocate for an application. Mr. Greenberg: 2 considerations for ConCom stewardship and resource protection. ConCom is supposed to supervise properties in its care. For years tried to get the Commission to do that; needs some thought. Trustees for Reservation won't take a piece of property without cash to support stewardship. Maxwell has volunteers who take care of trails. The lawyer is going to pull it if there seems to be no support. Do we want to take a vote as to the support, have the money matters taken care of by CPC? We are here to protect wetlands. Ms. Scott-Pipes: we can't have everything we want. We can take property as donations. Mr. O'Connell: Articulate the important parts for the Commission, in a letter. Mr. Greenbaum: not putting trails through it, not intending it for public recreation; very little maintenance. Departments review CPC projects. Willing to accept Chief Stewart's parcel. Mr. Tufts: do we have to know where it is? No. See what the costs are.

Discussion: Martin/Grady/Armstrong, 24 Ocean Front Street (revetment)

Motion to continue the discussion to January 11, 2012 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote. 20 and 22 Ocean Front Street are being appealed.

Wetlands Hearing: Doherty, 89 Edward Foster Road (wetland

delineation) (cont.)

Request for continuance. Motion to continue the hearing to January 11, 2012 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous vote.

Mr. Snow: Call from the Lilly's attorney asking the Commission to reconsider their vote to close the hearing. Very apologetic. Motion to rescind the vote to close 147A Border Street Mr. Jones. Second Mr. Greenbaum. Motion passed by unanimous vote.

Wetlands Hearing: Depperman, 103 Thomas Clapp Road (septic repair)

Phil Spath, Spath Engineering was present at the hearing. Abutters notification was submitted. Gravity system within the 100' buffer; groundwater high. Grading right up against the slope. Board of Health has approved; all grass. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: McDermott, 60 Chittenden Road (septic repair)

Greg Morse, Morse Engineering was present at the hearing. Abutters notification was submitted. Revised plan for a Board of Health minor change. Existing single family dwelling; failed system in front; new septic for a 4-bedroom house; 73' from wetland; 1500-gallon monolithic tank and leaching chambers. Proposing a silt sock outside the 50' buffer. Lawn surface, no flood plain, no vernal pool. DEP has not issued a number. Board of Health has approved. Mr. Greenbaum: no stream? Definite standing water, there may be intermittent areas; water was moving. Mr. Jones: how big is the tree that is coming down? 20" to 30" diameter. Could we ask for plantings to take its place. Plant to the east. Mr. Shea: Put 2 or 3 new trees down by the wetland. Motion to close the hearing Ms. Scott-Pipes subject to DEP File #. Second Mr. Jones. Motion passed by unanimous vote.

Mr. O'Connell: TA asked the Planner and himself to come up with a map for all the open space in town and all land acquired through CPC. Put funding in next year's budget for consultant to generate Conservation Land Trail Maps. Budget still has to go through the other committees. List is in the Open Space Plan, but Open Space Plan has

to be updated every 5 years. Laura Harbottle has GIS software. TA wants it all color-coded. Laura is going to take the lead on this. Any info anybody has, would be appreciated.

Mr. Snow: Chittenden property, across from 60 Chittenden. Owner wants to give to Conservation and it abuts conservation land. Mr. Greenberg went out to see it and he talked to a person renting 60 Chittenden, and was told broken down vehicles had been parked there. Need to see if contaminated. If there is a way to check and there is no problem, we could accept it. Need a preliminary view. Don't get much with a Phase I 21E, really preliminary; need a Phase II. If you know for sure there has been storage there, a Phase II would need to be done. Very small piece of property. Advantage is that it abuts ConCom land. Allan wrote a draft letter to the Selectmen to see if they wanted the property, but not sent to them. Mr. Greenberg: Thought that it was decided Commission didn't want it after hearing about the vehicles. There needs to be a process. Ms. Scott-Pipes: why don't we ask the owner to go to the Selectmen or have soil tested to show that the property is environmentally clean, then definitely interested. Mr. Snow: when people want to get rid of property and it costs little or no money, don't think it hurts to take it. Really don't know if vehicles had been parked there. Mr. Bjorklund: Potentially near a vernal pool; predated zoning. Mr. Snow: toss it back to the owner, to certify that it is a clean piece of property. That's why it's better not to make a blanket statement on every piece of property that is offered. In advance of taking the property should walk, view and vote. Mr. Greenberg: in the past criteria and priorities were followed. Priorities in CPC - protect the aquifer, open space, and then go on from there. Mr. O'Connell: if the Commission supports all the properties, they won't listen. Mr. Snow: CPC has developed the price for upland and wetlands. All CPC can do is offer less, and then it is up to the applicant.

Order of Conditions: Hale, 816 Country Way (septic repair)
Motion to condition the project Mr. Greenbaum. Second Mr. Jones.
Motion passed by unanimous vote.

Motion to work to accept Chief Stewart's parcel in the South Swamp
Ms. Scott-Pipes. Need a deed, and then has to go to Selectmen for a

vote to accept. Second Mr. Tufts. Motion passed by unanimous vote.

Lot 2 Peggotty Beach – they have an excavator parked there.

Wetlands Hearing: Fern Properties, 214 Clapp Road (wetland delineation) (cont.)

Frank Snow left the meeting. Atty. Mat Watsky, Brad Holmes, Brad McKenzie, Joe Iantossca, Paul Bourque were present at the hearing. Dec. 5 report from John Chessia: 2 items to be addressed and further explanation of why the vegetation is the determination of a BVW and why discounting hydric soils. Brad McKenzie: Dec. 12 submitted a package in response to Mr. Chessia regarding his revised hydrocad analysis of the front lawn area. Submitted figure 1 SCS soil survey, revised existing lawn attachment plan, shows delineation, 2007 NRCS soil survey, the soil hydrologic C soil, new plan to accompany ANRAD that shows off-site BVW delineation provided by an abutter at the last hearing. Talked to Paul Shea out in the hallway. Agreed to show buffer zone line on 214, from abutting property, basically connecting the dots, and put associated 100' buffer zone, submit hand drawn one tonight for review and consideration. Source of actual wetland line is an ORAD plan less than 3 years old. Transposed all the info on the back lot. Hydrologic analysis: prepare a watershed plan to determine the watershed area. Agreed scope of review would be limited to this calc. If 2-1/2" of rain fell the extent of ponding would be at elevation 109.41. Mr. Chessia review maybe considered as impervious. Used a runoff curved # of 98 essentially pavement, using that very conservative approach ponding up to elevation 109.5. Chessia asked for additional spot elevations. The plan is peppered with details. A higher level of detail is usually required to verify limit of watershed. Has not heard he has disagreed. Mr. Shea: addressed the 1-year storm issue. Line on Anderson and Straight property. Accept the plan, but need hard copy for the file. Get approximate lines since you can't go on other properties. Mr. Jones: discuss the vegetation and soil issue. Mr. Greenbaum: 1-year storm is 2 1/2", 10-year about 4", 100-year about 7". Based on observations a 10-year storm would be 10.91" and go over the street. Haven't looked at the entire site, need to look at for the whole watershed. As you go up in rain fall, proportionately deeper. McKenzie: A lot of parameters to evaluate. If modeling as pavement it

will get deeper. If you added another acre it would not materially change. Mr. Jones: If you use a 98 impervious. Where's the water going? If the bowl filled up to a certain elevation, the bottom of that bowl is impervious. If you have a bowl, we all agree that that bowl fills up with water after a storm. What happens to that water? Chessia asked for a conservative approach. If you had a 2 ½" rainfall, would like to model as impervious. Don't agree with that approach; used standard approach C, still permeable, and used his approach of 98. If it was pavement, it would fill up to a certain volume, and either evaporate or go over the road. Can't get out of his mind that it is connected to the swamp on the other side of the road, that there is a flow back and forth. The same topo, the same swamp, and thus it is swamp. It may have been continuous. McKenzie: No indication of a culvert, no DPW plans. Mr. Greenbaum: Don't show one in the area of question. 15,200 cu ft in a 2 ½" storm, greater than the ponding area, some going into the ground, and some to the trees. 35% of the water getting to the bottom. Watsky: doesn't know why talking about a 7" storm. Trying to determine a resource area. Not bordering a stream, isolated depression. Is it not greater than a quarter acre. As DEP has determined some storm event will make this overflow, is it jurisdictional or not? If it had over 10,000 sq. ft during 1 storm event, what is the maximum amount of flooding? Don't go to the next step unless the first step says 1- year storm event is one quarter acre with 6" average depth, that is the way the regs are set up to determine what is a vegetative wetland. For disturbed area, used adjudicatory decision. Under the regs vegetative wetland, looking at vegetation if greater than 50% presumed to be a wetland. Hydric soils only come in where areas are greater than 50% wetland vegetative or areas have been disturbed. To have in combination of both vegetation and soil, need both. No wetland vegetative at all, hasn't been seeded or fertilized. In circumstance like that DEP has decided if something has been managed as a lawn prior to WPA, it is not considered a disturbed area. That's where you stop your analysis. Could have historic hydric soils. This area is not wetlands now. Hydric soils can persist for a very long time, but it hasn't been wetlands for a very long time. Brad Holmes: when you look at a site, you look to see if it has been altered or disturbed, this is not disturbed. There is no compost pile or anything, then you would go looking for hydrology. DEP considers mowing not a

disturbance. Not dominant wetland vegetation, you have to have at least 50% or more, then you'd start looking at the soils. Mr. Jones: would you not agree you can have wetland where you have had mowing? I believe I have seen area constantly mowed that are wetlands but have no vegetation that would indicate a wetland. Maybe legally I have not seen it. Mr. Greenbaum: read the town bylaw page 13 10.55 – where you don't see vegetation (b) observation of prolonged or frequent flowing or standing surface water; (c) characteristics of hydric soils. Brad Holmes: no wetland vegetation around the pond, maintained lawn, going through the lawn area you'd be delineating. With hydric soils you immediately think it is a wetland. Just one of the components, you need to look at policy and science together. Mr. Watsky: Paragraph 2 of vegetative wetland. Key part is the word "and." "Vegetation and" a. b. & c; only in conjunction with the vegetation. Can't see vegetation; not in a disturbed area. Mr. Greenbaum: what do you want to do? We do have one other piece of evidence from Chessia that we need to read. Evidence is supposed to be submitted a week in advance. Wait till the next meeting. Watsky: Don't think it is fair. Steve Bjorklund: plans were just changed in the hallway. Mr. Shea: can't do a physical on-site survey, off property that was on a past plan that was on Anderson's property; just a generalized line. That was a new piece of information and letter. Mr. Greenberg: received information this evening. Consider it is important, just have to wait. Next meeting is January 11, unless you want to close. They read Chessia's letter. Watsky: Most of what he had to say we feel substantiates what McKenzie said; contours were shown exactly. His final comment on 100-year storm, he didn't provide calcs, or basis. All that being as it may, you only go to the 100-year storm event if the isolated area is more than a quarter acre foot. Focusing on the 1-year storm event. Would like to close. Watsky: We admit that the ponding area will overflow during storm events. Orders will be beyond 21 days. Fine with issuing Orders on Thurs., January 12. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Order of Conditions: Lilly, 147A Border Street (new build and septic)
Motion to deny the project without prejudice for lack of information Ms. Scott-Pipes. Second Mr. Greenbaum. Motion passed by unanimous

vote.

Minutes: Nov. 21, 2011

Motion to accept the minutes of Nov. 21, 2011 Ms. Scott-Pipes.

Second Mr. Jones. Motion passed by unanimous vote.

Ms. Scott-Pipes started a project at Hunter's Pond. Spoke to the owners and Historical Commission about the house. Wanted to look at just purchasing the property. Went before CPC personally to do negotiations as a citizen of the town for funding to start a decent title search. Dam has to be settled. Believe it will come up as property of the Ladds, but they can sign it over to us. In order to do anything, have to start the process of a title search, and dam safety inspection; it is a liability. Don't know if it the town's or their liability. It is a long, involved, expensive process. Hoping CPC will approve. It is a beautiful piece of property, a small World's End area.

CORRESPONDENCE

December 6, 2011 – December 19, 2011

1. Coastal Services Newsletter
2. The Beacon
3. DEP File #68-2378 – 89 Edward Foster Road (in file)
4. DEP File #68-2379 – 218 First Parish Road L.2 (not accepted, incomplete)
5. DEP File #68-2380 – 218 First Parish Road L.1 (not accepted, incomplete)
6. DEP File #68-2381 – 68 Glades Road (in file)
7. Planning Board Amended Agenda –for Dec. 8, 2011
9. DEP Acceptance of Appeal for a Superseding Determination for 39 Surfside Road – ON-SITE: Wed., Dec. 21 at 10:00 A.M. (in file)
10. Planning Board re: Accessory Dwelling Special Permit Application for 5 Third Ave
11. Recording of Certificate of Compliance for 68-1991 - Green, 45 Surfside Road (in file)
12. E-mail from Nancy Fay re: storing salt storing at Egypt Beach Parking lot (in file Salt Storage)
13. Pictures of front at 214 Clapp Road (Paul Shea & John Chessia) (in file)

14. Al Bangert's e-mail re: salt storage to departments and Mr. Schmid (in file Salt Storage)
15. DEP File #68-2382 – Hale, 816 Country Way (in file)
16. DEP File #68-2383 – Connolly, 0 Seamore Road –(in file)
17. WITHDRAWING Connolly, 0 Seamore Road – 68-2383 without prejudice (in file)
18. Paul Shea e-mail to Rick Grady re: 24 Ocean Front Street requesting the applicant, Mr. Martin, Rick Grady and Peter Armstrong to attend the 12/19/11 hearing at 6:30 p.m.
19. Recording of CofC 68-2163 - Murmes, 7 Surfside Road (in file)
20. Independent Environmental Consultant report re: 251 Thomas Clapp Road (CPC project)
21. Planning Board Form A Application re: Lilly, 147 Border Street– discussing 12/20, COMMENTS by 12/19
22. Planning Board Form A App re: Crofwell, 133 Stockbridge Road & 5 Bearce Ave. Discussing 12/20, COMMENTS by 12/19.
23. Letter to Conservation from Allan Greenberg re: Hollett Street Property (e-mailed to members)
24. Note and photos re: Mann Hill & Stanton Lane (on Jim/Paul's desk)
25. Recording of 68-2183 – Gannett Road – Pedestrian/Bicycle Trail Phase 2 (in file)
26. Copy of pertinent Orders and pictures of 36 Brunswick Street (in file and on Jim/Paul's deck)
27. Planning Board – Form A Application 322-334 Chief Justice Cushing Hwy. Comments no later than 12/19/11
28. Planning Board – Form A Application 787 First Parish Road. Comments no later than 12/19/11
29. DCR re: FEMA Hazard Mitigation Grant Program funding for June 2011 tornadoes and tropical storm Irene events. Complete applications by 4/2/12 from 10/21/09 (in file)
31. Recording for 68-2143 – Gannett Road – Pedestrian Bicycle Trail Phase I (in file)
32. Revised plan for 68-2378 – 89 Edward Foster Road (in file)
33. DEP File #68-2384 – Depperman Family Investment, 103 Thomas Clapp Road (in file)
34. DEP File #68-2385 – EBC Building Corp., 277-283 Chief Justice Cushing Hwy. (NO FILE)
35. Wetlands Restoration Project @ 31 Candlewood Drive

- 36. Request to reconsider and rescind the Commission's vote to deny without prejudice the application for 147 Border Street. At Planning Board Tues., Dec. 20, 2011. Prepared to appear at the next meeting.
- 37. Chessia Report re: 214 Clapp Road (in file
- 38. Request to postpone discussion re: 68-2300 24 Ocean Front Street
- 39. Planning Board Agenda for 12/20/11

Meeting adjourned 8:30 p.m.

Respectfully submitted,

Carol Logue, Secretary